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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Estados Unidos Mexicanos,

Plaintiff,

vs.

Diamondback Shooting Sports, Inc.,
et al.,

Defendants.

**CONSOLIDATED STATEMENT
PURSUANT TO L.R.CIV. 37.1 OF
DISCOVERY DEFICIENCIES IN
DEFENDANTS DIAMONDBACK
SHOOTING SPORTS, INC.; SNG
TACTICAL LLC; LOAN PRAIRIE,
LLC D/B/A THE HUB; AND
SPRAGUE'S SPORTS, INC.'S
RESPONSES AND OBJECTIONS TO
PLAINTIFF'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS**

NO. 4:22-cv-00472-TUC-RM

COMES NOW Plaintiff Estados Unidos Mexicanos, by and through undersigned counsel, and hereby presents this consolidated statement of discovery deficiencies in Defendants' Diamondback Shooting Sports, Inc.; SnG Tactical LLC; Loan Prairie, LLC D/B/A The Hub; and Sprague's Sports, Inc.'s Responses and Objections to Plaintiff's First Set of Requests for Production of Documents ("R&Os"), as required by L.R.Civ. 37.1(a).

Without waiving the many other objections to Defendants' insufficient R&Os—which are currently the subject of consultation between counsel—Plaintiff sets forth this consolidated statement of discovery deficiencies limited to Defendants' erroneous assertions

1 that certain documents are privileged under (1) a federal appropriations rider, known as the
2 Tiahrt Amendment; and (2) “the Arizona Audits Reports Privilege.”¹

3 Given the substantial similarity between Defendants Diamondback Shooting Sports,
4 Inc.; SnG Tactical LLC; Loan Prairie, LLC D/B/A The Hub; and Sprague’s Sports, Inc.’s
5 R&Os, to conserve the Court’s resources, Plaintiff consolidates its statement of discovery
6 deficiencies in these Defendants’ R&Os, with the quotations of these Defendants’ answers
7 from Defendant Diamondback’s R&Os, except for Requests No. 15 and 30-32 for which only
8 Defendant Sprague’s R&Os reference the privileges that are the subject of Plaintiff’s motion.

9 REQUESTS FOR PRODUCTION OF EVIDENCE

10 1. **Request No. 2:** All documents relating to recording and tracking Your firearm,
11 ammunition, and/or firearm accessory sales, which were kept and/or maintained by You
12 during the Relevant Time Period, including but not limited to: (i) A & D books; (ii) records
13 of sale; and (iii) any computerized, accounting or other system that contains the requested
14 information.

15 ANSWER RECEIVED: Diamondback objects to this Request on the basis that it seeks
16 irrelevant information that is not reasonably calculated to lead to the discovery of admissible
17 evidence, and is not proportional to the needs of the case as required by Rule 26(b)(1) of the
18 Federal Rules of Civil Procedure because it seeks disclosure of sales and accounting materials
19 that far exceed the relevant issues in this case as framed by the Complaint. Diamondback also
20 objects to this Request on the basis that federal law “prohibits the disclosure of information
21 required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or
22 required to be reported pursuant to paragraphs (3) and (7) of such section” and states that “all
23 such data shall be immune from legal process, shall not be subject to subpoena or other

24 _____
25 ¹ Though Defendants’ R&Os do not mention the Arizona Health and Safety Audit Privilege,
26 Defendants’ privilege logs, *see* Meiseles Decl., Exs. 7-9, 11, assert this privilege over
certain of the same documents over which they assert the Tiahrt Amendment, without
identifying or differentiating the documents.

1 discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in
2 any manner, nor shall testimony or other evidence be permitted based on the data, in a civil
3 action in any State (including the District of Columbia) or Federal court” Pub. Law 112-
4 55, 125 Stat. 609-10. Without waiving or limiting the foregoing objections, see documents
5 Bates numbered DBK001099–1131. Please also see privilege log for documents withheld
6 from production based on applicable privilege(s).

7 DEFICIENCY: Because this Request does not seek any information from ATF, the
8 Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-
9 55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A.*
10 *Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006). In addition, even if the Tiahrt Amendment
11 applied to certain materials sought from Defendants, at most, it would only apply to
12 documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610.

13 2. **Request No. 3:** All documents relating to recording and tracking Your firearm,
14 ammunition, and/or firearm purchases, which were kept and/or maintained by You during the
15 Relevant Time Period, including but not limited to: (i) A& D books; (ii) invoices; (iii) weekly,
16 monthly, or annual purchase summaries; (iv) records of purchase; and (v) contracts with
17 manufacturers, distributors, or dealers, and (vi) any computerized, accounting or other system
18 that contains the requested information.

19 ANSWER RECEIVED: Diamondback objects to this Request on the basis that it seeks
20 irrelevant information that is not reasonably calculated to lead to the discovery of admissible
21 evidence, and is not proportional to the needs of the case as required by Rule 26(b)(1) of the
22 Federal Rules of Civil Procedure because it seeks disclosure of agreements, purchase and
23 accounting materials that far exceed the relevant issues in this case as framed by the
24 Complaint. Diamondback also objects to this Request on the basis that federal law “prohibits
25 the disclosure of information required to be kept by licensees pursuant to section 923(g) of
26 title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of

such section” and states that “all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court” Pub. Law 112-55, 125 Stat. 609-10. Without waiving or limiting the foregoing objections, see privilege log for documents withheld from production based on applicable privilege(s).

DEFICIENCY: Because this Request does not seek any information from ATF, the Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A. Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006). In addition, even if the Tiahrt Amendment applied to certain materials sought from Defendants, at most, it would only apply to documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610.

3. **Request No. 4:** Electronically stored information in a tab-, comma-, or semicolon-delimited ASCII flat text file or similar electronic format sufficient to identify all of Your sales of firearms, ammunition, and firearm accessories during the Relevant Time Period in a transaction-by-transaction format, including but not limited to: (i) time of sale; (ii) date of sale; (iii) location of sale; (iv) employee that made the sale; (v) age, gender, occupation, nationality, and residence of purchaser; (vi) amount of ammunition sold; (vii) number of firearms sold; (viii) caliber and manufacturer, model, and type (e.g., handgun, rifle shotgun, semi-automatic) of each firearm sold; (ix) serial number of each firearm sold; (x) price of firearm and ammunition sold; (xi) any other identifying information related to the purchaser; (xii) information related to purchaser’s criminal history or background check; (xiii) any other information related to the product sold.

ANSWER RECEIVED: See objections and response to Request No. 2.

DEFICIENCY: See deficiencies identified in Defendants’ answer to Request No. 2.

1 4. **Request No. 5:** Electronically stored information in a tab-, comma-, or
2 semicolon-delimited ASCII flat text file or similar electronic format sufficient to identify all
3 of Your purchases of firearms, ammunition, and firearm accessories during the Relevant
4 Time Period in a transaction-by-transaction format, including but not limited to: (i) time of
5 purchase; (ii) date of purchase; (iii) manufacturer, distributor, or other entity You purchased
6 from; (iv) amount of ammunition purchased; (v) number of firearms purchased; (vi) caliber
7 and manufacturer, model, and type (e.g., handgun, rifle shotgun, semi-automatic) of each
8 firearm purchased; (vii) serial number of each firearm purchased; (viii) price of firearm and
9 ammunition purchased; (ix) any other identifying information related to the seller; (x) any
10 other information related to the product purchased.

11 ANSWER RECEIVED: See objections and response to Request No. 3.

12 DEFICIENCY: See deficiencies identified in Defendants' answer to Request No. 3.

13 5. **Request No. 6:** All Firearm Transaction Records (ATF Form 4473's) for all
14 Firearms listed on the attached Exhibit (Exhibit A)

15 ANSWER RECEIVED: Diamondback objects to this Request to the extent that it seeks
16 disclosure of information or documents in the possession, custody, or control of any other
17 parties. Diamondback further objects to this Request on the basis that federal law "prohibits
18 the disclosure of information required to be kept by licensees pursuant to section 923(g) of
19 title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of
20 such section" and states that "all such data shall be immune from legal process, shall not be
21 subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be
22 used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted
23 based on the data, in a civil action in any State (including the District of Columbia) or Federal
24 court" Pub. Law 112-55, 125 Stat. 609-10. See privilege log for documents withheld
25 from production based on the privilege(s) set forth above.
26

1 DEFICIENCY: Because this Request does not seek any information from ATF, the
2 Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-
3 55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A.*
4 *Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006).

5 6. **Request No. 7:** All Multiple Sales Forms (ATF Form 3310.4) drafted or
6 submitted during the Relevant Time Period.

7 ANSWER RECEIVED: Diamondback objects to this Request on the basis that it seeks
8 irrelevant information that is not reasonably calculated to lead to the discovery of admissible
9 evidence, and is not proportional to the needs of the case as required by Rule 26(b)(1) of the
10 Federal Rules of Civil Procedure because it seeks disclosure of transactional forms that far
11 exceed the relevant issues in this case as framed by the Complaint. Diamondback also objects
12 to this Request on the basis that federal law “prohibits the disclosure of information required
13 to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required
14 to be reported pursuant to paragraphs (3) and (7) of such section” and states that “all such
15 data shall be immune from legal process, shall not be subject to subpoena or other discovery,
16 shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner,
17 nor shall testimony or other evidence be permitted based on the data, in a civil action in any
18 State (including the District of Columbia) or Federal court” Pub. Law 112-55, 125 Stat.
19 609-10. See privilege log for documents withheld from production based on the privilege(s)
20 set forth above.

21 DEFICIENCY: Because this Request does not seek any information from ATF, the
22 Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-
23 55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A.*
24 *Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006).

25 7. **Request No. 8:** All Rifle Sales Forms (ATF Form 3310.12) drafted or
26 submitted during the Relevant Time Period.

1 ANSWER RECEIVED: Diamondback objects to this Request on the basis that it seeks
2 irrelevant information that is not reasonably calculated to lead to the discovery of admissible
3 evidence, and is not proportional to the needs of the case as required by Rule 26(b)(1) of the
4 Federal Rules of Civil Procedure because it seeks disclosure of transactional forms that far
5 exceed the relevant issues in this case as framed by the Complaint. Diamondback also objects
6 to this Request on the basis that federal law “prohibits the disclosure of information required
7 to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required
8 to be reported pursuant to paragraphs (3) and (7) of such section” and states that “all such
9 data shall be immune from legal process, shall not be subject to subpoena or other discovery,
10 shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner,
11 nor shall testimony or other evidence be permitted based on the data, in a civil action in any
12 State (including the District of Columbia) or Federal court” Pub. Law 112-55, 125 Stat.
13 609-10. See privilege log for documents withheld from production based on the privilege(s)
14 set forth above.

15 DEFICIENCY: Because this Request does not seek any information from ATF, the
16 Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-
17 55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A.*
18 *Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006).

19 8. **Request No. 9:** All documents reflecting the multiple sale of firearms or
20 ammunition not recorded on ATF Forms 3310.4 or 3310.12.

21 ANSWER RECEIVED: Diamondback objects to this Request on the grounds that it is
22 vague, overly broad, and unduly burdensome (assuming the Request concerns the “Relevant
23 Time Period), as the “multiple sale of ammunition” is non-sensical and ambiguous, it is
24 unknown what documents are being sought related to the “multiple sale of firearms” other
25 than what has been requested in the prior Requests, to produce any such unknown documents
26 for the past 14 years by definition would be unduly burdensome. If the request is seeking

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1 additional documents required to be maintained by FFLs by ATF, Diamondback also objects
2 to this Request on the basis that federal law “prohibits the disclosure of information required
3 to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required
4 to be reported pursuant to paragraphs (3) and (7) of such section” and states that “all such
5 data shall be immune from legal process, shall not be subject to subpoena or other discovery,
6 shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner,
7 nor shall testimony or other evidence be permitted based on the data, in a civil action in any
8 State (including the District of Columbia) or Federal court . . .” Pub. Law 112-55, 125 Stat.
9 609-10.

10 DEFICIENCY: Because this Request does not seek any information from ATF, the
11 Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-
12 55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A.*
13 *Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006). In addition, even if the Tiahrt Amendment
14 applied to certain materials sought from Defendants, at most, it would only apply to
15 documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610.

16 9. **Request No. 10:** All documents and communications related to the firearm
17 sales identified in Exhibit A or any other suspect sales, straw sales, multiple sales, repeat
18 purchases, sales of assault weapons, .50 cal rifles, belt-fed firearms sold or transferred by
19 You or any Defendant in this litigation, including but not limited to all records of such sales,
20 background checks related to such sales, identification information related to the purchaser,
21 any other information related to the purchaser, and any paper or electronic notes related to
22 such sales.

23 ANSWER RECEIVED: Diamondback objects to this Request on the basis that it is
24 overbroad and fails to meet the particularity requirement under Rule 34(b)(1)(A) because it
25 is not reasonably limited to a specific time frame. Diamondback further objects to this
26 Request on the basis that it seeks irrelevant information that is not reasonably calculated to

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lead to the discovery of admissible evidence, and is not proportional to the needs of the case as required by Rule 26(b)(1) of the Federal Rules of Civil Procedure because it seeks disclosure of transactional forms that far exceed the relevant issues in this case as framed by the Complaint. Diamondback also objects to this Request on the basis that federal law “prohibits the disclosure of information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section” and states that “all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court” Pub. Law 112-55, 125 Stat. 609-10. Without waiving or limiting the foregoing objections, see documents Bates numbered DBK001099–131. Please also see privilege log for documents withheld from production based on applicable privilege(s).

DEFICIENCY: Because this Request does not seek any information from ATF, the Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A. Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y. 2006). In addition, even if the Tiahrt Amendment applied to certain materials sought from Defendants, at most, it would only apply to documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610. Nor does the audit privilege in Arizona’s Health and Safety Audit Privilege Act apply to these documents because (1) ATF conducted the audit, not the Defendants claiming privilege, *see e.g.*, A.R.S. §12-2323(A) (the privilege only applies to “an audit report conducted by an organization”); *id.* §12-2321(4) (definition of applicable “organization” conducting an audit does not include government agency); (2) the privilege only applies to a formal audit “that relates to occupational health, health or safety,” A.R.S. § 12-2321(3) (emphasis added); Floor

1 Amendment Explanation, Crandell Floor Amendment, H.B. 2485, Health and Safety Audit
2 Privilege, 51st Cong., 1st Reg. Sess. (Ariz. April 9, 2013), available at
3 <https://www.azleg.gov/legtext/51leg/1R/adopted/2485CRANDELL1128.pdf>; (3) the
4 privilege does not apply to “[a] document, communication, datum or report or other
5 information required by a regulatory agency to be collected, developed, maintained or
6 reported under a health or safety law” or “[i]nformation obtained by observation, sampling
7 or monitoring by a regulatory agency,” A.R.S. § 12-2326(A); and (4) Defendants have
8 waived any claims of privilege over communications with ATF and other third parties by
9 virtue of disclosing the documents without a “confidentiality agreement,” A.R.S. § 12-
10 2324(B)(3).

11 10. **Request No. 13:** All documents related to any firearms, ammunition, and or
12 firearm accessories sold or transferred by You for which You know or have reason to believe
13 have been (i) used, recovered, and/or investigated by law enforcement in connection with an
14 alleged crime or unauthorized use; (ii) the subject of a trace, or (iii) otherwise recovered by
15 law enforcement, including but not limited to trace requests and responses and firearms
16 trafficking or straw purchasing investigations or prosecutions.

17 ANSWER RECEIVED: Diamondback objects to this Request on the basis that it is
18 overbroad and fails to meet the particularity requirement under Rule 34(b)(1)(A) because it
19 is not reasonably limited to a specific time frame. Diamondback further objects to this
20 Request on the basis that it seeks irrelevant information that is not reasonably calculated to
21 lead to the discovery of admissible evidence, and is not proportional to the needs of the case
22 as required by Rule 26(b)(1) of the Federal Rules of Civil Procedure because any firearms
23 recovered within the United States that were “used, recovered, and/or investigated by law
24 enforcement in connection with an alleged crime or unauthorized use” cannot be relevant to
25 the harm allegedly suffered by Plaintiff in Mexico. Diamondback also objects to this Request
26 on the basis that federal law “prohibits the disclosure of information required to be kept by

1 licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported
2 pursuant to paragraphs (3) and (7) of such section” and states that “all such data shall be
3 immune from legal process, shall not be subject to subpoena or other discovery, shall be
4 inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor
5 shall testimony or other evidence be permitted based on the data, in a civil action in any State
6 (including the District of Columbia) or Federal court” Pub. Law 112-55, 125 Stat. 609-
7 10. Without waiving or limiting the foregoing objections, see documents Bates numbered
8 DBK001099–131. Please also see privilege log for documents withheld from production
9 based on applicable privilege(s).

10 DEFICIENCY: Because this Request does not seek any information from ATF, the
11 Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-
12 55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A.*
13 *Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006). In addition, even if the Tiahrt Amendment
14 applied to certain materials sought from Defendants, at most, it would only apply to
15 documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610. Nor
16 does the audit privilege in Arizona’s Health and Safety Audit Privilege Act apply to these
17 documents because (1) ATF conducted the audit, not the Defendants claiming privilege, *see*
18 *e.g.*, A.R.S. §12-2323(A) (the privilege only applies to “an audit report conducted by an
19 organization”); *id.* §12-2321(4) (definition of applicable “organization” conducting an audit
20 does not include government agency); (2) the privilege only applies to a formal audit “that
21 relates to occupational health, health or safety,” A.R.S. § 12-2321(3) (emphasis added); Floor
22 Amendment Explanation, Crandell Floor Amendment, H.B. 2485, Health and Safety Audit
23 Privilege, 51st Cong., 1st Reg. Sess. (Ariz. April 9, 2013), available at
24 <https://www.azleg.gov/legtext/51leg/1R/adopted/2485CRANDELL1128.pdf>; (3) the
25 privilege does not apply to “[a] document, communication, datum or report or other
26 information required by a regulatory agency to be collected, developed, maintained or

1 reported under a health or safety law” or “[i]nformation obtained by observation, sampling
2 or monitoring by a regulatory agency,” A.R.S. § 12-2326(A); and (4) Defendants have
3 waived any claims of privilege over communications with ATF and other third parties by
4 virtue of disclosing the documents without a “confidentiality agreement,” A.R.S. § 12-
5 2324(B)(3).

6 **11. Request No. 15:** All documents concerning employees who participated in or
7 were present at (a) the sale of any firearm for which You received a Trace Request, (b) the
8 sale of any firearm to a person who was charged with violations of firearms laws, or (c) the
9 sale of any firearm to any of the purchasers identified in Exhibit A, including, but not limited
10 to all employment records, human resources records, personnel records (including
11 employment applications, references), disciplinary records, job titles and responsibilities,
12 training documents and records reflecting or concerning any training You provided to those
13 employees, including training module worksheets and signed employee handbooks pages.

14 ANSWER RECEIVED: Sprague’s objects to this Request on the basis that it is
15 overbroad and fails to meet the particularity requirement under Rule 34(b)(1)(A) because it
16 is not reasonably limited to a specific time frame. Sprague’s further objects to this Request
17 on the basis that it seeks irrelevant information that is not reasonably calculated to lead to the
18 discovery of admissible evidence, and is not proportional to the needs of the case as required
19 by Rule 26(b)(1) of the Federal Rules of Civil Procedure because any firearms recovered
20 within the United States that were “used, recovered, and/or investigated by law enforcement
21 in connection with an alleged crime or unauthorized use” cannot be relevant to the harm
22 allegedly suffered by Plaintiff in Mexico. Sprague’s also objects to this Request on the basis
23 that federal law “prohibits the disclosure of information required to be kept by licensees
24 pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant
25 to paragraphs (3) and (7) of such section” and states that “all such data shall be immune from
26 legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in

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evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court” Pub. Law 112-55, 125 Stat. 609-10. Without waiving or limiting the foregoing objections, Defendants refer Plaintiffs to the blank ATF Form 4473 and all instructions accompanying said form available on ATF’s website; the ATF’s website pertaining to Tools & Services for Firearms Industry and Current Licensees; ATF’s Federal Firearms Regulations Guide (<https://www.atf.gov/firearms/docs/guide/federal-firearms-regulations-reference-guide-2014-edition-atf-p-53004/download>); the ATF’s State Laws and Published Ordinances – Firearms (35th Edition) (<https://www.atf.gov/firearms/state-laws-and-published-ordinances-firearms-35th-edition>); ATF’s Federal Firearms Licensee Quick Reference and Best Practices Guide (<https://www.atf.gov/firearms/federal-firearms-licensee-quick-reference-and-best-practices-guide>); and Don’t Lie for the Other Guy materials from the National Shooting Sports Foundation (<https://www.dontlie.org/>). Sprague’s further responds that it periodically receives and reviews copies of all notices, newsletters, etc. that the ATF distributes electronically to federal firearms licensees, to train and educate personnel (<https://www.atf.gov/firearms/download-firearms-industry-newsletter>), but does not retain copies of them. In addition, see internal employee training materials, Bates numbered SPR000535-SPR000566.

DEFICIENCY: Because this Request does not seek any information from ATF, the Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A. Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006). In addition, even if the Tiahrt Amendment applied to certain materials sought from Defendants, at most, it would only apply to documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610.

1 12. **Request No. 22:** All documents related to law enforcement actions, including
2 but not limited to documents relating to: (i) ATF audits; (ii) ATF inspections; (iii) ATF
3 citations or violations; (iv) ATF demand and warning letters; (v) ATF revocation letters and
4 materials; (vi) materials from ATF meetings and conferences; (vii) materials relating to
5 criminal investigations or prosecutions, including gun trafficking; (viii) the ATF Demand 2
6 program; (ix) as well as communications among You, Your employees, law enforcement,
7 trade associations, or Defendants related to the same.

8 ANSWER RECEIVED: Diamondback objects to this Request on the basis that it is
9 overbroad and fails to meet the particularity requirement under Rule 34(b)(1)(A) because it
10 is not reasonably limited to a specific time frame. Diamondback objects to the Request on the
11 grounds that the term “law enforcement actions” is improper given the nature of the items
12 subsequently requested. Diamondback further objects to this Request on the basis that it seeks
13 irrelevant information that is not reasonably calculated to lead to the discovery of admissible
14 evidence, and is not proportional to the needs of the case as required by Rule 26(b)(1) of the
15 Federal Rules of Civil Procedure because it seeks disclosure of communications and other
16 materials that far exceed the relevant issues in this case as framed by the Complaint. Please
17 also see privilege log for documents withheld from production based on applicable
18 privilege(s).

19 DEFICIENCY: Because this Request does not seek any information from ATF, the
20 Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-
21 55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A.*
22 *Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006). In addition, even if the Tiahrt Amendment
23 applied to certain materials sought from Defendants, at most, it would only apply to
24 documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610. Nor
25 does the audit privilege in Arizona’s Health and Safety Audit Privilege Act apply to these
26 documents because (1) ATF conducted the audit, not the Defendants claiming privilege, *see*

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e.g., A.R.S. §12-2323(A) (the privilege only applies to “an audit report conducted by an organization”); *id.* §12-2321(4) (definition of applicable “organization” conducting an audit does not include government agency); (2) the privilege only applies to a formal audit “that relates to occupational health, health or safety,” A.R.S. § 12-2321(3) (emphasis added); Floor Amendment Explanation, Crandell Floor Amendment, H.B. 2485, Health and Safety Audit Privilege, 51st Cong., 1st Reg. Sess. (Ariz. April 9, 2013), available at <https://www.azleg.gov/legtext/51leg/1R/adopted/2485CRANDELL1128.pdf>; (3) the privilege does not apply to “[a] document, communication, datum or report or other information required by a regulatory agency to be collected, developed, maintained or reported under a health or safety law” or “[i]nformation obtained by observation, sampling or monitoring by a regulatory agency,” A.R.S. § 12-2326(A); and (4) Defendants have waived any claims of privilege over communications with ATF and other third parties by virtue of disclosing the documents without a “confidentiality agreement,” A.R.S. § 12-2324(B)(3).

13. **Request No. 23:** All documents related to actual or potential contacts or communications with any law enforcement, regulatory, or other government agencies relating to the sale of firearms, ammunitions, or firearm accessories, including, but not limited to (i) the ATF; (ii) the United States Federal Bureau of Investigation; (iii) Arizona Department of Public Safety; (iv) the Tucson Police Department; (v) the Phoenix Police Department; or (vi) the Yuma Police Department.

ANSWER RECEIVED: See objections and responses to Request No. 13.

DEFICIENCY: See deficiencies identified in Defendants’ answer to Request No. 13.

14. **Request No. 24:** All documents and records that You have received or sent to the ATF, any sheriff’s office, and/or other state or federal regulatory agencies related to Your federal firearms license(s) or firearms business, including but not limited to: (i) state and federal licenses to sell firearms, firearm accessories and ammunition at Your store location

1 including but not limited to applications, renewals and supporting documents; (ii) all records,
2 citations, warning letters, reports, inspection reports, corrective actions or other documents
3 issued or provided to You, including any actual or threatened suspension, revocation, or
4 surrender of Your federal firearms licenses; (iii) documents relating to any actual or
5 threatened investigation, in addition to any indictment, arrest, or conviction of an employee
6 or agent of Your store for violation of a law or regulation relating to firearms, ammunition,
7 and or/firearm accessory sales; and (iv) documents and trace requests concerning firearms,
8 ammunition, or firearm accessories sold by Your store.

9 ANSWER RECEIVED: Diamondback objects to this Request on the basis that it is
10 overbroad and fails to meet the particularity requirement under Rule 34(b)(1)(A) because it
11 is not reasonably limited to a specific time frame. Diamondback further objects to this
12 Request on the basis that it seeks irrelevant information that is not reasonably calculated to
13 lead to the discovery of admissible evidence, and is not proportional to the needs of the case
14 as required by Rule 26(b)(1) of the Federal Rules of Civil Procedure because it seeks
15 disclosure of communications and records that far exceed the relevant issues in this case as
16 framed by the Complaint. Diamondback also objects to this Request on the basis that federal
17 law “prohibits the disclosure of information required to be kept by licensees pursuant to
18 section 923(g) of title 18, United States Code, or required to be reported pursuant to
19 paragraphs (3) and (7) of such section” and states that “all such data shall be immune from
20 legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in
21 evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or
22 other evidence be permitted based on the data, in a civil action in any State (including the
23 District of Columbia) or Federal court” Pub. Law 112-55, 125 Stat. 609-10. Subject to
24 the foregoing objections, see objections and responses to Request Nos. 13, 22, and 23. See
25 also documents Bates numbered DBK000988–1019 and DBK001046–47. Please also see
26 privilege log for documents withheld from production based on applicable privilege(s).

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DEFICIENCY: Because this Request does not seek any information from ATF, the Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A. Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y. 2006). In addition, even if the Tiahrt Amendment applied to certain materials sought from Defendants, at most, it would only apply to documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610. Nor does the audit privilege in Arizona’s Health and Safety Audit Privilege Act apply to these documents because (1) ATF conducted the audit, not the Defendants claiming privilege, *see e.g.*, A.R.S. §12-2323(A) (the privilege only applies to “an audit report conducted by an organization”); *id.* §12-2321(4) (definition of applicable “organization” conducting an audit does not include government agency); (2) the privilege only applies to a formal audit “that relates to occupational health, health or safety,” A.R.S. § 12-2321(3) (emphasis added); Floor Amendment Explanation, Crandell Floor Amendment, H.B. 2485, Health and Safety Audit Privilege, 51st Cong., 1st Reg. Sess. (Ariz. April 9, 2013), available at <https://www.azleg.gov/legtext/51leg/1R/adopted/2485CRANDELL1128.pdf>; (3) the privilege does not apply to “[a] document, communication, datum or report or other information required by a regulatory agency to be collected, developed, maintained or reported under a health or safety law” or “[i]nformation obtained by observation, sampling or monitoring by a regulatory agency,” A.R.S. § 12-2326(A); and (4) Defendants have waived any claims of privilege over communications with ATF and other third parties by virtue of disclosing the documents without a “confidentiality agreement,” A.R.S. § 12-2324(B)(3).

15. **Request No. 30:** All documents related to policies, guidelines, standards, protocols, practices, handbooks, or training materials concerning the sale of firearms, firearm accessories, and/or ammunition at Your store, including (i) Your Employee Handbook or any other employee manual(s) in effect or used to train employees; (ii) all training videos, power-

1 points, work sheets, or other documents or audiovisual used to train employees that sell
2 firearms, firearm accessories, or ammunition; (iii) all resources available to employees who
3 sell firearms, firearm accessories, or ammunition created by trade associations, firearm
4 manufacturers, ammunition manufactures, other dealers, or law enforcement authorities
5 (including but not limited to ATF, FBI or any other law enforcement agency).

6 ANSWER RECEIVED: Sprague's objects to this Request on the basis that it is
7 overbroad and fails to meet the particularity requirement under Rule 34(b)(1)(A) because it
8 is not reasonably limited to a specific time frame. Sprague's further objects to this Request
9 on the basis that it seeks irrelevant information that is not reasonably calculated to lead to the
10 discovery of admissible evidence, and is not proportional to the needs of the case as required
11 by Rule 26(b)(1) of the Federal Rules of Civil Procedure because firearms accessories cannot
12 be relevant to the harm allegedly suffered by Plaintiff in Mexico. Without waiving or limiting
13 the foregoing objections, Defendants refer Plaintiffs to the blank ATF Form 4473 and all
14 instructions accompanying said form available on ATF's website; the ATF's website
15 pertaining to Tools & Services for Firearms Industry and Current Licensees; ATF's Federal
16 Firearms Regulations Guide ([https://www.atf.gov/firearms/docs/guide/federal-firearms-](https://www.atf.gov/firearms/docs/guide/federal-firearms-regulations-reference-guide-2014-edition-atf-p-53004/download)
17 [regulations-reference-guide-2014-edition-atf-p-53004/download](https://www.atf.gov/firearms/docs/guide/federal-firearms-regulations-reference-guide-2014-edition-atf-p-53004/download)); the ATF's State Laws and
18 Published Ordinances – Firearms (35th Edition) ([https://www.atf.gov/firearms/state-laws-](https://www.atf.gov/firearms/state-laws-and-published-ordinances-firearms-35th-edition)
19 [and-published-ordinances-firearms-35th-edition](https://www.atf.gov/firearms/state-laws-and-published-ordinances-firearms-35th-edition)); ATF's Federal Firearms Licensee Quick
20 Reference and Best Practices Guide ([https://www.atf.gov/firearms/federal-firearms-licensee-](https://www.atf.gov/firearms/federal-firearms-licensee-quick-reference-and-best-practices-guide)
21 [quick-reference-and-best-practices-guide](https://www.atf.gov/firearms/federal-firearms-licensee-quick-reference-and-best-practices-guide)); and Don't Lie for the Other Guy materials from
22 the National Shooting Sports Foundation (<https://www.dontlie.org/>). Sprague's further
23 respond that it periodically receives and reviews copies of all notices, newsletters, etc. that
24 the ATF distributes electronically to federal firearms licensees, to train and educate personnel
25 (<https://www.atf.gov/firearms/download-firearms-industry-newsletter>), but does not retain
26 copies of them. Please also see response to Request No. 15.

1 DEFICIENCY: Because this Request does not seek any information from ATF, the
2 Tiahrt Amendment, *see* Consol. and Further Continuing Approp. Act, 2012, Pub. L. No. 112-
3 55, 125 Stat. 552, 609-610 (2011), is inapplicable. *See City of New York v. Beretta U.S.A.*
4 *Corp.*, 429 F. Supp. 2d 517, 526 (E.D.N.Y 2006). In addition, even if the Tiahrt Amendment
5 applied to certain materials sought from Defendants, at most, it would only apply to
6 documents that Defendants are required by law to maintain. *See* 125 Stat. at 609-610.

7 16. **Request No. 31**: All documents related to the detection of, prevention of,
8 identification of, reporting of, or potential or actual consequences related to: suspect sales,
9 straw sales, multiple sales, repeat purchases, sales of assault weapons, .50 cal rifles, or belt-
10 fed firearms, trafficking, and/or kitchen table dealers.

11 ANSWER RECEIVED: See objections and responses to Request Nos. 15, 19 and 30.

12 DEFICIENCY: See deficiencies identified in Defendants' answers to Requests Nos.
13 15, 19, and 30.

14 17. **Request No. 32**: All documents concerning any formal or informal policy
15 relating to working with or cooperating with law enforcement or reporting suspicious activity
16 to any law enforcement agency.

17 ANSWER RECEIVED: See objections and responses to Request Nos. 15, 19, 30, and
18 31. See also Bates numbered SPR000722-SPR000723.

19 DEFICIENCY: See deficiencies identified in Defendants' answers to Requests Nos.
20 15, 19, 30, and 32.

1 RESPECTFULLY SUBMITTED this 13th day of September, 2024.

2
3 DECONCINI McDONALD YETWIN & LACY,
4 P.C.

5 By: /s/Ryan O'Neal

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CERTIFICATE OF SERVICE

I, Ryan O’Neal, hereby certify that this document was filed with the Clerk of the Court via CM/ECF. Those attorneys who are registered with the Court’s electronic filing systems may access this filing through the Court’s CM/ECF system, and notice of this filing will be sent to these parties by operation of the Court’s electronic filings system.

Dated: September 13, 2024

/s/ Ryan O’Neal

Ryan O’Neal

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